

5/7/09--HOUSE PASSES H.R. 1728, MORTGAGE REFORM AND ANTI-PREDATORY LENDING ACT OF 2009

On 5/7/09, the U.S. House of Representatives voted 300 to 114 to pass H.R. 1728, The Mortgage Reform and Anti-Predatory Lending Act of 2009 includes important provisions regarding appraiser activities. The Bill will now go to the Senate Banking Committee.

H.R. 1728 includes comprehensive regulation of appraisal management companies (AMCs), primarily by state appraiser-licensing authorities. AMCs that are subsidiaries of and controlled by federally regulated financial institutions would be off-limits to the state boards, but would be regulated by the federal banking agencies.

Language in the Bill distinguishes between AMCs and traditional privately run appraisal firms. For example, if a firm has 15 or more appraisers on a panel within any state and 25 or more in all the other states, it is defined as an AMC. The Appraisal Foundation's Appraiser Qualifications Board has a role in developing requirements for AMC regulation, while the federal Appraisal Subcommittee (ASC) issues the actual regulations.

The Bill essentially prohibits the use of broker price opinions (BPOs) as the primary basis for determining market value for mortgage originations.

Other key appraisal reforms in the Bill include:

- Quality control standards for automated valuation models (AVMs) are required and the Standards Board of The Appraisal Foundation must be consulted in establishing such standards;
- The federal banking agencies are required to revisit the de minimis issue based on consumer protection criteria and must hold public hearings in this regard;
- No subprime loan can be made without a full written appraisal report, which is compliant with the Uniform Standards of Professional Appraisal Practice;
- The federal ASC is given broad new powers and responsibilities, including additional financial resources. If the appraiser-complaint hotline that was part of the HVCC agreement between New York Attorney General Andrew Cuomo and the Government Sponsored Enterprises (GSEs)—Fannie Mae and Freddie Mac—is not operational within a year after enactment of the legislation, the ASC would be required to operate such a hotline; and,
- The Federal Housing Finance Agency—regulator of the GSEs—will be added to the membership of the ASC.

Additional key appraiser provisions include:

- Mandatory appraisals by appraisers for consumers with Home Ownership and Equity Protection Act loans as well as subprime borrowers;
- Stronger rules to protect the independence of appraisers, including a requirement that only certified or licensed appraisers may perform appraisal review functions;
- Establishment of a state-by-state system for monitoring appraisal management companies to be put in place within three years;
- A requirement that those who commit appraisal fraud or those who lose their licenses or certificates cannot turn around and establish appraisal management companies;
- Establishment of a system for collecting fees from appraisal management companies to support the additional work of the ASC;
- Greater recognition of professional appraisal designations

For further information and to view the text of H.R. 1728, go to www.thomas.loc.gov and search H.R. 1728.